

the available information that the proposed sleeping quarters will be so situated and constructed as to permit interior noise levels due to noise under the control of the railroad to exceed an $L_{eq}(8)$ value of 55dB(A). If individual air conditioning and heating systems are to be utilized, projections may relate to noise levels with such units turned off.

(d) Approval of a petition filed under this subpart may be withdrawn or modified at any time if it is ascertained, after opportunity for a hearing, that any representation of fact or intent made by a carrier in materials submitted in support of a petition was not accurate or truthful at the time such representation was made.

Subpart D—Electronic Recordkeeping

SOURCE: 74 FR 25350, May 27, 2009, unless otherwise noted.

§ 228.201 Electronic recordkeeping; general.

For purposes of compliance with the recordkeeping requirements of subpart B, a railroad, or a contractor or a subcontractor to a railroad may create and maintain any of the records required by subpart B through electronic transmission, storage, and retrieval provided that all of the following conditions are met:

- (1) The system used to generate the electronic record meets all requirements of this subpart;
- (2) The electronically generated record contains the information required by § 228.11;
- (3) The railroad, or contractor or subcontractor to the railroad, monitors its electronic database of employee hours of duty records through sufficient number of monitoring indicators to ensure a high degree of accuracy of these records; and
- (4) The railroad, or contractor or subcontractor to the railroad, trains its employees on the proper use of the electronic recordkeeping system to enter the information necessary to create their hours of service record, as required by § 228.207.

(5) The railroad, or contractor or subcontractor to the railroad, maintains an information technology security program adequate to ensure the integrity of the system, including the prevention of unauthorized access to the program logic or individual records.

(6) FRA's Associate Administrator for Railroad Safety/Chief Safety Officer may prohibit or revoke the authority to use an electronic system if FRA finds the system is not properly secure, is inaccessible to FRA, or fails to record and store the information adequately and accurately. FRA will record such a determination in writing, including the basis for such action, and will provide a copy of its determination to the affected railroad, or contractor or subcontractor to a railroad.

§ 228.203 Program components.

(a) *System security.* The integrity of the program and database must be protected by a security system that utilizes an employee identification number and password, or a comparable method, to establish appropriate levels of program access meeting all of the following standards:

(1) Data input is restricted to the employee or train crew or signal gang whose time is being recorded, with the following exceptions:

(i) A railroad, or a contractor or subcontractor to a railroad, may allow its recordkeeping system to pre-populate fields of the hours of service record provided that—

(A) The recordkeeping system pre-populates fields of the hours of service record with information known to the railroad, or contractor or subcontractor to the railroad, to be factually accurate for a specific employee.

(B) The recordkeeping system may also provide the ability for employees to copy data from one field of a record into another field, where applicable.

(C) Estimated, historical, or arbitrary data are not used to pre-populate any field of an hours of service record.

(D) A railroad, or a contractor or a subcontractor to a railroad, is not in violation of this paragraph if it makes a good faith judgment as to the factual accuracy of the data for a specific employee but nevertheless errs in pre-populating a data field.